

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

November 14, 2013

- I. **CALL TO ORDER** - The meeting was called to order at 1:31 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present - Mike Owens, Chair; Eunice Beatty; Will Berkley; Mike Cravens; David Drake; Karen Mundy; Carolyn Plumlee; Bill Wilson; Carla Blanton; and Frank Penn. Patrick Brewer was absent.

Planning staff members present - Chris King, Director; Bill Sallee; Barbara Rackers; Tom Martin; David Jarman; Kelly Hunter; Cheryl Gall; Denice Bullock; James Duncan; Laurie Jackson; Chris Taylor; Janice Westlund and Cindy Deitz. Other staff members in attendance were: Steve Parker, Division of Engineering; Captain Charles Bowen and Lieutenant Greg Lengal, Division of Fire and Emergency Services; Tim Queary, Department of Environmental Policy; Casey Kaucher, Division of Traffic Engineering and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair reminded the Commission members that the minutes of the September 12, 2013; October 24, 2013; and October 31, 2013, meetings were previously emailed to the Commission for their review; and if there were no changes, those minutes were ready to be considered at that time.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to approve the minutes of the September 12, 2013; October 24, 2013; and October 31, 2013, meetings.

- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal were considered at this time.

- a. DP 2013-90: SPRINGDALE SUBDIVISION, UNIT 2, BLOCK A, LOTS 1, 2 & 3 (1/5/14)* - located at 659 Mitchell Avenue.
(Council District 11) **(Barrett Partners)**

The Subdivision Committee Recommended: **Postponement**. There are concerns with the proposed lotting and the 30' building line.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Provided the Planning Commission makes a finding on the use of an access easement in accordance with Article 6-8(m) of the Land Subdivision Regulations.
11. Discuss required information for private open space.
12. Discuss proposed lotting.
13. Discuss resolution of building conflicts with platted 30' building line.

Representation – Tony Barrett, Barrett Partners, was present representing the applicant, and requested postponement of DP 2013- 90: SPRINGDALE SUBDIVISION, UNIT 2, BLOCK A, LOTS 1, 2 & 3 to the November 21, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 10-0 (Brewer absent) to postpone DP 2013- 90: SPRINGDALE SUBDIVISION, UNIT 2, BLOCK A, LOTS 1, 2 & 3 to the November 21, 2013, Planning Commission meeting.

- b. DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) (11/14/13)* - located at 1145 & 1156 Appian Crossing Way.
(Council District 8) **(Rob Sims)**

Note: The Planning Commission postponed this plan at their September 12, 2013 and October 10, 2013, meetings. The purpose of this amendment is to delete townhouses and add four apartment buildings.

The Subdivision Committee Recommended: **Postponement**. There are concerns with the proposed circulation and access, given the substandard condition of Jones Trail.

* - Denotes date by which Commission must either approve or disapprove request.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Addition of name and address of developer in title block.
13. Denote record plat designation.
14. Dimension proposed driveway/access point to Jones Trail.
15. Dimension proposed walkways.
16. Addition of street cross-section for Jones Trail.
17. Dimension apartment buildings and clubhouse.
18. Denote height of new buildings in feet.
19. Complete site statistics for buildable and floor area.
20. Remove from chart "areas of individual lots" that are being deleted from plan.
21. Delete miscellaneous lot information.
22. Delete note #13 (redundant).
23. Resolve timing of water line easement release to remove conflict with proposed building.
24. Delete Unit 3 typical townhouse information.
25. Discuss improvements to Jones Trail.
26. Discuss note #16.
27. Discuss possible need for a tree preservation area along Jones Trail.
28. Discuss continued use of pedestrian/emergency vehicle access as a vehicular access by area residents.
29. Discuss landscape buffer adjacent to parking and compactor along northern property line.
30. Discuss apartment access proposed through townhouse (H.O.A.) access easements.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) to the December 12, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) to the December 12, 2013, Planning Commission meeting.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 7, 2013, at 8:30 a.m. The meeting was attended by Commission members: Mike Owens, Carolyn Plumlee, Eunice Beatty and Karen Mundy. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Barbara Rackers, Dave Jarman, Kelly Hunter, Denice Bullock and Scott Thompson, as well as Captain Charles Bowen and Lieutenant Greg Lengal, Division of Fire & Emergency Services and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

- A. CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

- a. PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR. (1/5/14)* - located at 1031 North Cleveland Road. (Council District 12)
(Abacus Engineering & Land Surveying)

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this plan is to subdivide one 141.43-acre tract into a 41.43-acre tract and a 100.00-acre tract in the Agricultural Rural (A-R) zone.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Clarify the 25' building setback from the floodplain and 300' setback on property.
9. Add or clarify the proposed access to both lots from N. Cleveland Road.

Mr. Sallee noted that the staff had not yet received the notice of the required posting of a sign and an affidavit for PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR., and said that if the staff receives that documentation this item could be considered on the Consent Agenda.

- b. PLAN 2011-68F: RICHARDSON PROPERTY, UNIT 5, SECTION 4 (2/2/14)* - located on Hannah Todd Place. (Council District 7)
(Fred Eastridge)

Note: The Planning Commission originally approved this plan on July 14, 2011, and granted a one-year extension on June 14, 2012, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Correct note #10 to read: "This property shall be developed in accordance with the approved final development plan."
8. Addition of street tree schedule notes.
9. Addition of tree protection and planting statistics notes.
10. Denote: One dwelling unit per lot.
11. Exaction information to the approval of the Division of Planning.
12. Clarify side yard setback in the development standard for townhomes.
13. Addition of access easement cross-section between lots 74 and 75.
14. Denote street frontage in site statistics.
15. Denote setback for lot 75.

Note: The applicant is now requesting a reapproval of this plan.

The Staff Recommends: **Reapproval**, subject to the previous conditions.

- c. DP 2013-94: SOUTHEND PARK, SECTION 1, UNIT 1 (1/28/14)* - located in the 700/800 Block of De Roode Street. (Council District 3)
(Hall-Harmon Engineers)

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.

* - Denotes date by which Commission must either approve or disapprove request.

7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Denote floor area square footage for townhouses and 4-plex units.
11. Denote required parking for townhomes and 4-plex units in site statistics.
12. Denote height and exterior dimensions of buildings in feet for Lots 1-4.
13. Delete purpose of amendment note.
14. Delete building information shown on Lots 5 & 6.
15. Addition of easements per submitted Final Record Plat.
16. Delete note #16.
17. Review by Technical Committee prior to plan certification.

In conclusion, Mr. Sallee said that the staff had received the notice for the required posting of a sign and the affidavit for PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR.; however, the documentation received appears to indicate an incorrect meeting date on the sign. Therefore, this item will need to be removed from the Consent Agenda and placed on the docket as a discussion item, at which time the staff will request postponement of this request until a later Planning Commission meeting date.

Mr. Sallee then said that the remaining items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit discussion.

Consent Agenda Discussion – The Chair confirmed that the staff had requested that PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR. be removed from the Consent Agenda. Mr. Sallee replied affirmatively, and said that the staff will be requesting that this item be postponed for one month.

The Chair then asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to approve the items listed on the Consent Agenda, removing PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

1. FINAL SUBDIVISION PLANS

- a. PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR. (1/5/14)* - located at 1031 North Cleveland Road. (Council District 12) **(Abacus Engineering & Land Surveying)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this plan is to subdivide one 141.43-acre tract into a 41.43-acre tract and a 100.00-acre tract in the Agricultural Rural (A-R) zone.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.

* - Denotes date by which Commission must either approve or disapprove request.

7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Clarify the 25' building setback from the floodplain and 300' setback on property.
9. Add or clarify the proposed access to both lots from N. Cleveland Road.

Staff Comments – Mr. Sallee said that this item was removed from the Consent Agenda due to an incorrect date on the notification sign; therefore, the staff would request postponement of PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR to the December 12, 2013, Planning Commission meeting. He then said that, under normal circumstances, a 2-week postponement would be sufficient; but due to the short time frame until the next meeting, the only alternative is a 4-week postponement of this plan.

Representation – Ryan Turner, Abacus Engineering & Land Surveying, was present representing the applicant. The Chair asked if they understood that this item would be postponed for 30 days to the December 12, 2013 Planning Commission meeting. Mr. Turner said that would be fine, under the circumstances.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Penn, seconded by Mr. Wilson and carried 10-0 (Brewer absent) to postpone DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) to the December 12, 2013, Planning Commission meeting.

Note: Mr. Wilson said that he serves as Chairman of the Board for Palliative Health Care, which is a subsidiary of Hospice, and he would recuse himself from this portion of the meeting. He left the meeting at this time.

- b. PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2 (1/21/14)* - located at 2356 Newtown Pike. (Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 10, 2008, granted a reapproval on September 10, 2009, and granted a one-year extension on September 9, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names and/or addresses per the street addressing office.
5. Addition of utility and streetlight easements, as required by the utility companies, the Urban County Engineer and the Urban County Traffic Engineer.
6. Identify existing access easements to remaining tract to the east.
7. Verify exaction information.
8. Denote required buffer along the Urban Service Area Boundary (conditional zoning).
9. Correct Newtown Pike cross-section.
10. Resolve the possible need for a final development plan to be approved by the Planning Commission.
11. Resolve access easement.
12. Board of Health Department's approval of septic tank system prior to certification.

On October 11, 2012, the Planning Commission granted a **Reapproval**, subject to the original conditions, revising the following, and adding two conditions:

- ~~3. Building Inspection's approval of landscaping and required street tree information.~~
13. Urban Forester's approval of required street tree information.
14. Revise boundary of EAMP scenic easement per approved plans.

Note: The applicant now requests reapproval of the plan. It should be noted that a Final Development Plan has been approved in the past year.

The Subdivision Committee Recommended: Reapproval, subject to the previously approved conditions, deleting conditions #6, #10, #11 and #12, and adding three additional conditions:

- ~~6. Identify existing access easements to remaining tract to the east.~~
- ~~10. Resolve the possible need for a final development plan to be approved by the Planning Commission.~~
- ~~11. Resolve access easement.~~
- ~~12. Board of Health Department's approval of septic tank system prior to certification.~~
- ~~13. Urban Forester's approval of required street tree information.~~

6. Denote: This property shall be developed in accordance with the approved Final Development Plan.
10. Remove 50' building line reference.
11. Addition of right-of-way reservation for approved cul-de-sac location.

Staff Presentation – Mr. Martin presented the final record plat for PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2, and reported that the Planning Commission has reapproved this plat on several occasions. The applicant was now requesting the Commission to reapprove this request once again.

Mr. Martin directed the Commission's attention to the plat rendering, and oriented them to the overall area and to the surrounding street system. He said that when the plat was first submitted, the applicant was proposing a 10-acre tract; but later the subject property was turned into a 16-acre tract that will have direct access to Newtown Pike, and will be used by Hospice of the Bluegrass. He then said that the subject property is north of Dr. Poole's property and Providence Place Parkway, and is just south of the Urban Service Boundary.

Mr. Martin said that this plat is governed by a development plan, and this is the reason for the three additional conditions listed on today's agenda. He noted that one of the conditions will require the applicant to reserve additional right-of-way for the cul-de-sac, which is necessary for the future connection of Mary Faye Place to Providence Place.

Mr. Martin said that the Subdivision Committee did recommend reapproval of this plat, subject to the previously approved conditions, deleting conditions #6, #10, #11 and #12, and adding three new conditions:

- ~~6. Identify existing access easements to remaining tract to the east.~~
- ~~10. Resolve the possible need for a final development plan to be approved by the Planning Commission.~~
- ~~11. Resolve access easement.~~
- ~~12. Board of Health Department's approval of septic tank system prior to certification.~~
- ~~13. Urban Forester's approval of required street tree information.~~

- 6. Denote: This property shall be developed in accordance with the approved Final Development Plan.
- 10. Remove 50' building line reference.
- 11. Addition of right-of-way reservation for approved cul-de-sac location.

Planning Commission Questions – Mr. Penn asked if the reservation for the cul-de-sac is shown on the rendering. Mr. Martin replied negatively and said that the applicant will have to add that to the plat prior to its recording. Mr. Penn said that the Planning Commission will be approving this plat subject to that condition, which Mr. Martin verified.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with the staff's recommendations and requested reapproval of PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this plan. There was no response.

Action - A motion was made by Ms. Beatty, seconded by Mr. Cravens, and carried 9-0 (Wilson recused; Brewer absent) to reapprove PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2, as presented by the staff.

Note: Mr. Wilson returned to the meeting at this time.

- c. PLAN 2013-122F: SOUTHEND PARK, SECTION 1, UNIT 1 (1/28/14)* - located in the 700/800 Block of De Roode Street. (Council District 3) **(Hall-Harmon Engineers)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:

- 1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
- 2. Urban County Traffic Engineer's approval of street cross-sections and access.
- 3. Building Inspection's approval of landscaping.
- 4. Addressing Office's approval of street names and addresses.
- 5. Urban Forester's approval of tree protection area(s) and required street tree information.
- 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
- 7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
- 8. Denote: Lots 1-4 shall be developed in accordance with the approved Final Development Plan.
- 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- 10. Complete owners' certification information per the Land Subdivision Regulations.
- 11. Provided the Planning Commission grants a waiver to Articles 4-7(d)(1) and 4-7(d)(9) of the Land Subdivision Regulations.
- 12. Review by Technical Committee prior to plan certification.

Staff Presentation – Directing the Commission's attention to the final record plat for PLAN 2013-122F: SOUTHEND PARK, SECTION 1, UNIT 1, Ms. Galt oriented them to the location of the subject property. She noted that the property is located in the 700/800 block of De Roode Street, and is south of West High Street and east of the rail road track

* - Denotes date by which Commission must either approve or disapprove request.

overpass. She then said that this proposal is a part of the Newtown Pike Corridor project, and the purpose of this request is to subdivide one lot into 22 lots for single family townhomes and multi-family units.

Ms. Gallt said that the Subdivision Committee reviewed this request and recommended approval, subject to the conditions listed on today's agenda. She briefly explained the list of conditions, and said that conditions #1 through #7 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. She noted that this item was submitted as a late filing; therefore, it will need to be reviewed by the Technical Committee prior to the plan being certified. She added that the applicant has requested a waiver to Article 4-7(d)(1) and (9) of the Land Subdivision Regulations, and this request is related to the required certification of completion and the posting of a financial surety for public improvements (condition #11).

Waiver Report – Mr. Martin said that this request is part of the affordable housing component that will create 22 lots in the redevelopment of the Southend Park, or also known as the Newtown Pike Corridor Extension project. He then said that the requested waiver is necessary to move forward with the recordation of the plat, which would allow the facilitation of and would expedite the transfer of the property to the Lexington Community Land Trust (CLT). He added that, with the property transferred, it will also allow the tax credits and other funding mechanisms to be obtained to help facilitate the process in providing the affordable housing component of the project.

Mr. Martin said that the requested waiver is for substantial completion, which is required by the Land Subdivision Regulations to ensure that the necessary and required public infrastructure is in place to serve a development prior to recording the plat and constructing the dwelling units. In conjunction with this, the posting of a bond or surety by a developer is required to cover any improvements not yet constructed. He said that this project is funded by Federal, State and LFUCG funds; and with the Kentucky Transportation Cabinet overseeing the construction of the project, they have their own surety mechanisms in place and requirements that govern the construction of those improvements. He added that it is anticipated that those improvements will be completed by the end of the calendar year.

Mr. Martin said that the staff is recommending approval of the requested waivers, for the following reasons:

1. Not granting the waivers would constitute an exceptional hardship for the applicant by impeding the development of the affordable housing component of the project.
2. Granting the waivers will not negatively impact public health and safety, as the completion of the public improvements will be completed; and warranties on the improvements will be provided by the standard contractual procedures utilized and required by the applicant.
3. Granting the waivers complies with 1-5(c) of the Land Subdivision Regulations that encourages waivers that facilitate infill and redevelopment projects.

Representation – Andrew Grunwald, Division of Engineering, was present. He said that they are in agreement with the staff's recommendations and requested approval of PLAN 2013-122F: SOUTHEND PARK, SECTION 1, UNIT 1. He then said that they have made great progress on this project and they are very confident they will have significant construction completed by the end of the calendar year. He added that they will address the conditions noted on today's agenda and they believe that by the end of the year the waiver will be null and void.

Planning Commission Question – Mr. Penn said that the Planning Commission discourages major requests being submitted late filing. He asked, considering that the LFUCG knew it was coming up, why they filed this request as a late file. Mr. Grunwald apologized, and explained that the properties were acquired in the name of the KY Transportation Cabinet, and they did not know the best way to transfer them to the Lexington Community Land Trust. He then said that there were many ways to address this issue; but the best scenario was to have these properties transfer first through the city by filing a consolidation plat, and then have the plat done by the city. He added that they did not want to "pull the trigger" on the project until they knew exactly how the proposal would be done. He said that it took time for the State to organize and submit the deeds to the city, and the staff knew it would take time for the city to transfer those properties over to the Lexington Community Land Trust. Since they are on a short time frame, and deferring this project for another year, they wanted the Lexington Community Land Trust to be able to use the tax credits for this project.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this plan. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) to approve PLAN 2013-122F: SOUTHEND PARK, SECTION 1, UNIT 1, as presented by the staff, as well as granting the waiver to Articles 4-7(d)(1) and 4-7(d)(9) of the Land Subdivision Regulations.

- d. PLAN 2013-109F: CHEVY CHASE PLACE (2/4/14)* - located at 866 E. High Street.
(Council District 3) **(Endris Engineering)**

Note: The Planning Commission originally approved this plan on October 13, 2013, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.

* - Denotes date by which Commission must either approve or disapprove request.

6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Revise "20' front setback" to read "20' building line."
9. Revise proposed Lot 1 to match the approved Final Development Plan.
10. Denote the extent of the final development plan control on the proposed lots.
11. Resolve the dedication of right-of-way to the approval of the Kentucky Transportation Cabinet.

Note: The applicant now requests a waiver to Articles 6-2(a) and 6-6(b) of the Land Subdivision Regulations.

The staff will report at the meeting.

Staff Presentation – Directing the Commission's attention to the final record plat for PLAN 2013-109F: CHEVY CHASE PLACE, Mr. Martin said that the Planning Commission originally approved this plan on October 13, 2013, subject to the conditions listed on today's agenda. He then said that the applicant is now requesting a waiver to Articles 6-2(a) and 6-6(b) of the Land Subdivision Regulations.

Mr. Martin directed the Commission's attention to the rendered plat and oriented them to the location of the subject property, and to the nearby street system. He said that the property is located at 866 E. High Street, and has access from that street, as well as additional access from Ashland Terrace. He then said that the original approval allowed the property to be subdivided into five lots. He added that this property is fully developed as a shopping center and each of the lots that were created does have an existing building.

Mr. Martin said that, at the Technical Committee Review, it was noted that this property is served by a private sewer line, and the applicant is requesting a waiver to Articles 6-2(a) and 6-6(b) of the Land Subdivision Regulations, to ensure that the responsibility of the sewer lines is to remain private and not transfer to the Lexington-Fayette Urban County Government. This is not an unusual situation for older commercial developments in Lexington.

Directing the Commission's attention to the overhead projector screen, Mr. Martin explained that the aerial photograph demonstrates the location of the public sewer systems in the general vicinity. He said that there are collection systems and trunk lines in the general area; but as for the subject property, there are no public connections - only private sewer lines. He then said that there is some confusion as to the exact location of these lines, and before the sewer lines can be dedicated to the public, they would need to be relocated to eliminate any conflict with an existing building. The Lexington-Fayette Urban County Government would not want to take over responsibility for those sewer lines when there could be a conflict associated with a building. Mr. Martin said that, since this property is fully developed, trying to relocate the sewers and make those lines public would pose an undue hardship on the applicant.

Mr. Martin said that the staff had discussed this issue with the Division of Engineering, and they are in agreement in recommending **approval of the requested waiver, for the following reasons:**

1. Granting the requested waiver will not adversely affect public health and safety, as the properties are currently adequately served by previously approved private sanitary sewers and shall continue to be served by the existing system.
2. Not granting the requested waiver would constitute an exceptional hardship by requiring the potential relocation and reconstruction of the existing lines before they could be accepted as public sanitary sewer lines.

This recommendation is made subject to the following requirement:

- a. Prior to certification of the final record plat, denote private sewer easements and notes regarding maintenance and/or replacement of the sanitary sewer lines, to the approval of the Divisions of Engineering and Water Quality.

Planning Commission Questions – The Chair asked if "Item a" on the waiver report was also included as part of the staff's recommendation. Mr. Martin replied affirmatively.

Representation – Kevin Phillips, Endris Engineering, was present representing the applicant. He said that the purpose of this item being presented was the waiver request. However, when they reviewed the conditions of approval from the October 13th meeting, an issue came about with condition #9. He said that the location of the new property line is 4 feet or so off from what is noted on the approved final development plan. This has created an issue with the property line straddling the middle of the parking space, instead of lining up at the head of the parking spaces. He said that the entire purpose of the plat was to establish cleaner property lines for liability purposes for these buildings. If the property lines are moved to coincide with the approved final development plan, it defeats the purpose of the original intent of the request. He said that they want the physical parking lot to define the property lines for each of the buildings. Mr. Phillips said that, if at all possible, he would ask that the Planning Commission delete condition #9. He added that he had two exhibits that could be presented to the Commission to help further explain the conflict.

Planning Commission Questions – The Chair asked if this issue had been discussed with the staff. Mr. Phillips replied that he had discussed it with the staff. The Chair then asked that the exhibits be presented to the Commission for further explanation. Directing the Commission's attention to the overhead projector screen, Mr. Phillips presented a

rendering of the approved final development plan, and explained that this exhibit shows the limits of the property lines ending at the head end of the parking lot, which was their original intent with the request. However, in reviewing the actual conditions, based upon the dimensions listed on the final development plan, the property line would not end at the head of the parking spaces, but rather the property line would be 4 feet further south. He said that, at that time, they were not aware that this would happen; otherwise, they would have requested on October 13th that the staff delete condition #9. They are trying to keep the parking spaces associated with certain buildings together through the property lines. He said that this is the reason they are requesting that condition #9 be deleted from the list of recommendations that were approved at the October 13th meeting.

Mr. Phillips said that the staff wanted to propagate/extend the limits of the development plan so they could know exactly what part of the development is controlled by a development plan and what part is not. He then said that they believe condition #10 would be sufficient because they would need to denote the extent of the final development plan control on the proposed lots. They intend to delineate the property line as the limits of the current development plan; but the property line, as of now, will not match up with the approved final development plan.

Mr. Phillips said that they are in agreement with the staff's recommendations and requested approval of the waiver for PLAN 2013-109F: CHEVY CHASE PLACE, as well as to the deletion of condition #9.

The Chair confirmed that the applicant is requesting to delete condition #9 and use condition #10, to which Mr. Phillips verified. Mr. Sallee said that, given the explanation provided by Mr. Phillips, the staff has no objection to deleting old condition #9 and replacing that condition with "Item a" from the waiver report. Mr. Phillips confirmed that the new #9 would read "Prior to certification of the final record plat, denote private sewer easements and notes regarding maintenance and/or replacement of the sanitary sewer lines, to the approval of the Divisions of Engineering and Water Quality."

Ms. Beatty confirmed that the staff is recommending approval of adding "Item a" from the waiver report to the list of conditions on today's agenda. Mr. Sallee said that the staff has no objection to deleting the language from condition #9 and replacing that language with the language from "item, a" on the staff's waiver report.

Ms. Beatty asked if each of these properties is owned by separate individuals. Mr. Phillips said that this property is under a single private ownership, and the reason for the request is to limit the liability (any slip and fall) to that single use, versus jeopardizing the entire shopping center.

The Chair clarified that the staff is agreeable to deleting the current language as noted on condition #9, and replacing it with the language noted on "Item a" in the waiver report. Mr. Sallee replied affirmatively.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this plan. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) to approve the requested waiver to Articles 6-2(a) and 6-6(b) of the Land Subdivision Regulations for PLAN 2013-109F: CHEVY CHASE PLACE, as presented by the staff; and replacing condition #9 language to read: "Prior to certification of the final record plat, denote private sewer easements and notes regarding maintenance and/or replacement of the sanitary sewer lines, to the approval of the Divisions of Engineering and Water Quality."

2. DEVELOPMENT PLANS

- a. DP 2013-81: SUBURBAN PROPERTY (KROGER & SOUTH ASHLAND LAND COMPANY) (12/2/13)* - located at 704 Euclid and 408, 412, 416 and 420 Marquis Avenue.
(Council District 3)

(The Roberts Group)

The Subdivision Committee Recommended: Approval, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Denote compactor location on plan.
11. Denote construction entrance location.
12. Denote building height in site statistics.
13. Clarify tree protection information along R-1E property boundary.
14. Clarify sidewalk entry and compliance with conditional zoning requirements at Marquis customer entrance.
15. Clarify "8' fence" labeling along R-1E property boundary.

* - Denotes date by which Commission must either approve or disapprove request.

16. Remove "proposed zone" from site statistics.
17. Clarify note #10, and explain compliance.
18. Denote a 5' sidewalk along Marquis in street cross-section per Planning Commission approval of the dimensional variance.
19. Denote screening on plan for tractor-trailer loading docks.
20. Provided the Planning Commission makes a finding that the plan complies with the Big-Box Guidelines.
21. Discuss access easement to South Ashland.

Planning Commission Comments - The Chair explained that this request is a final development plan for the Suburban Property located at the corner of Euclid Avenue and Marquis Avenue. He said that, as everyone is fully aware, the Planning Commission and the Urban County Council recently approved a zone change for this property, and conditional zoning restrictions and variances were part of that approval. He then said that, for today's hearing, the final development plan for this property will be discussed, not anything that pertains to zoning issues, and he asked that anyone who will be presenting information to the Planning Commission to keep that in mind.

Staff Presentation – Directing the Commission's attention to the final development plan for DP 2013-81: SUBURBAN PROPERTY (KROGER & SOUTH ASHLAND LAND COMPANY), Mr. Martin noted that the staff had distributed several handouts to the Commission, as well and said that the staff would like to enter into the record a series of email correspondences from the residents of this area who are in opposition. He noted that the Commission also has copies of these emails at their place.

Mr. Martin directed the Commission's attention to the rendering, and oriented them to the location of the subject property, and to the nearby street system. He explained that the subject property is located between South Ashland Avenue and Marquis Avenue, along Euclid Avenue. He added that there is a residential area to the rear of the property along Ashland Terrace.

Mr. Martin said that the applicant is proposing to construct an 85,126 square-foot building - 63,001 square feet will be used for the first floor area, and 22,125 square feet will be used for the basement area. He then said that the primary access to and from this site will be provided from Euclid Avenue. This will be done through a right-in only into the property, and a left-out and a right-out back onto Euclid Avenue. There will also be a full access point on Marquis Avenue at the rear of the property.

Mr. Martin directed the Commission's attention to the area behind the proposed building, and said that there is a proposed ramp that will provide access to the roof-top parking lot, noting that underneath this ramp will be where the pharmacy drive-through is located. He said that, since the zone change, the applicant has modified this area to help improve the traffic circulation, and the majority of the traffic circulation will be two-way movement. However, the parking area toward Euclid Avenue will only allow one-way movement into and out of the property. He then said that the parking requirement in the B-6P zone is based upon the square footage of the building; and for this proposal, the applicant will need 208 parking spaces in total. He said that the applicant has proposed 87 parking spaces on the ground level and 121 parking spaces on the roof top.

Mr. Martin explained that the applicant is proposing an underground detention basin in the far left corner of the property, as well as providing additional landscaping. The landscaping will be the length of the property extending from Marquis Avenue over to the edge of the adjoining property. He then said that, during the zone change, there was a lot of discussion regarding the building relationship to Marquis Avenue; and at that time, variances were approved to allow the setback to be reduced, which allowed the building to fit on this site. Since that time, the applicant has reduced the building square footage by 11,000 square feet, and moved the building further off Marquis Avenue. This change has allowed additional space for landscaping to be provided along Marquis Avenue.

Mr. Martin said that the staff did recommend postponement to the Technical Committee due to the issue with the private access easement that Kroger is currently utilizing for their site. He explained that there is a dispute with the adjoining property owners and Kroger's ability to continue to use this private access easement. He said that the access easement is not part of this development request, and the Planning Commission has no jurisdiction in this matter; however, this disagreement could be resolved through the Court system. Mr. Martin said that the important issue, as it relates to this development plan, is the function of the property and how it will work when it comes to access and deliveries. The applicant has indicated that delivery trucks will be restricted from using that access easement to exit the site. He said that the trucks will enter the property from Marquis Avenue at the rear, at which time, those trucks are able to back up into the loading docks. After the trucks are unloaded, they will be able to exit the property through the Euclid Avenue access. He said that the staff had met with the Division of Traffic Engineering; and they are confident in saying that with a few minor adjustments, this route movement would function appropriately for this property. He then said that the applicant will need to provide a crossover aisle and a deeper throat to help make that aspect of the entrance into the property function better. He added that this will relieve some of the pressure and possible issues impacting Euclid Avenue. He said that this proposed design is predicated on that easement not being used.

Mr. Martin said that there was concern as to whether or not this development had sanitary sewer capacity, and the staff had distributed documentation from the Division of Water Quality stating that their offices have approved the capacity, as it is proposed.

Mr. Martin directed the Commission's attention to the conditional zoning restrictions, and briefly explained that there are management-related conditions associated with this site. Those include: restricting the use of loudspeakers on the property, with the exception of the drive-through pharmacy; the delivery trucks will cut off their engines once the trucks are parked for unloading; and the trash compactor will only be utilized between the hours of 8:00 am and 9:00 pm. He then said that the conditional zoning restrictions that are relevant to the physical development of this property include restricting the building height, installing a 6' landscape buffer with planted trees no less than 18 feet tall along Marquis Avenue, and installing an 8-foot privacy fence at the rear boundary line. He added that the building will substantially comply with or conform to the architectural renderings that were presented to the Planning Commission at the zone change hearing.

Mr. Martin directed the Commission's attention to an elevation rendering and noted that the staff had previously distributed an exhibit to the Commission that demonstrated the differences in the building design and the façade for Kroger since its original approval. He said that, when looking at the changes made, the applicant has added a building entrance on the Marquis Avenue side, and the pedestrian plaza on Euclid Avenue has been shifted toward Marquis Avenue. He then said that a canopy has been added to the store that will extend from the Marquis Avenue side around to the Euclid frontage, ending at the stores' entrance on the surface parking lot. He added that the façade material, below the windows on the Marquis Avenue and South Ashland Avenue sides, has also been changed from brick to stone. Mr. Martin said that the towers have less glass, but they are utilizing more glass in other areas to break up or separate the brick façades. He explained that the size and location of the louvered screens have been changed on the walls of the Marquis Avenue, as well as the Euclid Avenue, sides. He added that the railing around the deck parking along Euclid Avenue will be a glazed panel and the parapet top rail will be different.

Mr. Martin then directed the Commission's attention to the Big-Box Guidelines Report. He briefly explained that these guidelines fall into a generalized category, the first and foremost of which are the design of the building and the façade, the height of the building, and how different elements will be used to break up the façade. He said that pedestrian safety and pedestrian features are also noted. He stated that the applicant has proposed to break up the façade by using different materials, as well as to delineate the customer entrances by using a different color material. The Big-Box Design Guidelines encourage using safe pedestrian access and movement through a parking lot and to ensure that there are connections made to the nearby street system. He said that Euclid Avenue and Marquis Avenue do have existing sidewalks along their frontages and this site also has sidewalk connections to these frontages. He then said that, even though this site is proposing both one-way and two-way traffic movement, pedestrians can walk parallel with the traffic. Mr. Martin said that there is a conflict between the rear parking lot area and the building, and the applicant has proposed to fully identify the pedestrian sidewalk, which will help mitigate this conflict with the traffic movement.

Mr. Martin said that the roof top parking deck poses more of a challenge since elevators and escalators will need to be used for this area to function correctly. The applicant has proposed to paint pedestrian walkways for people to move safely through the parking lot. As for the roof top parking, he said that it is hard to say that this area meets the adopted Big-Box Design Guidelines. However, the surface parking lot does comply with the spirit of the guidelines and it allows pedestrian movement to move with the traffic.

Mr. Martin explained that the adopted Big-Box Design Guidelines addresses landscape screening and buffering and discourages the placement of storage, loading docks, and dumpsters near residential areas, unless there is no other alternative placement. He said that the staff is aware of the challenges with this site, and most of these activities will occur at the rear of the building. The applicant has shifted the building to create more room at the rear; but the fact is that the dumpster and loading dock will still be at the rear of the building, near the residential area. He explained that there is no room for a berm along the rear, but the applicant will be providing an 8' solid fence and landscape plantings to help buffer this use from the adjacent residential area. He said that the reason there is limited room is due to a sewer line and easements along the property line. He then said that the applicant is not meeting the exact physical requirement of the adopted Big-Box Design Guidelines, but they are making a strong effort to help buffer the residential area from these activities.

Mr. Martin said that the staff has reviewed the applicant's proposal, and they have concluded that this plan does in fact substantially comply with the adopted Big-Box Design Guidelines. He then said that the staff is recommending approval of the applicant's request, for the following reasons:

1. The final development plan, as submitted, demonstrates considerable compliance with the adopted Big-Box Design Guidelines.
2. Guidelines #6, #7 & #12 are not met with this proposal. However, the existing Kroger store and site conditions do not meet these two guidelines either. What is being proposed, in the alternate, to meet the intent of the guidelines are an 8' high solid fence and angled parking and a dedicated pedestrian sidewalk in the parking lot. Overall, the new site plan will greatly improve compliance with the majority of these requirements.

Mr. Martin returned the Commission's attention to the list of revised conditions for this development plan, and said that the staff is recommending approval of the applicant's request, subject to the following revised requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.

4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- ~~10. Denote compactor location on plan.~~
10. ~~11. Denote Delete~~ construction entrance location from Marquis Avenue.
- ~~12. Denote building height in site statistics.~~
11. ~~13. Clarify tree protection information along R-1E property boundary.~~
12. ~~14. Clarify sidewalk entry and compliance with conditional zoning requirements~~ Document right-of-way encroachment for proposed canopy at Marquis customer entrance.
13. ~~15. Clarify "8' fence" labeling along R-1E property boundary.~~
- ~~16. Remove "proposed zone" from site statistics.~~
14. ~~17. Clarify note #10, to and explain compliance~~ height of lighting poles on parking deck.
- ~~18. Denote a 5' sidewalk along Marquis in street cross section per Planning Commission approval of the dimensional variance.~~
- ~~19. Denote screening on plan for tractor trailer loading docks.~~
15. Delete notes #6 & #11.
16. ~~20. Provided the Planning Commission makes a finding that the plan complies with the Big-Box Guidelines.~~
- ~~21. Discuss access easement to South Ashland.~~

Mr. Martin briefly explained that conditions #1 through #9 are standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. He noted that the applicant had placed a note on the development plan stating that there would be a construction entrance on both Euclid Avenue and Marquis Avenue, and the staff is concerned with the impact on the nearby neighborhood on Marquis Avenue. Therefore, the staff is requesting that the applicant delete the construction entrance from Marquis Avenue.

Mr. Martin then said that the applicant will need to clarify the tree protection information along the rear of the property. He added that the applicant does want to utilize some of the existing trees along the rear and it is the staff's understanding that the Urban Forester has been on site and determined that there are both healthy and damaged or diseased trees. The healthy trees will be protected, but the rest will need to be removed. Mr. Martin noted that the tree canopy requirement will be met when the trees have matured, and this is calculated by both the larger and smaller trees, as well as the landscaping. He said that the staff had met with the applicant, and they have demonstrated how they intend to comply with that requirement.

Mr. Martin said that note #10 on the development plan is related to light poles, and the applicant is required to have the lights directed downward and away from residential areas. The staff believes it is important for the applicant to explain the height of these poles on the parking deck and how those lights will be addressed to not impact the surrounding neighborhood.

Mr. Martin said that the applicant will also need to clean up the development plan by removing notes #6 and #11. He then said that note #6 is related to a previous note stating that no building permits shall be issued until a final development plan is approved. This note is not necessary for this request and should be removed. He then said that note #11 reads that this development plan was previously grandfathered in for sanitary sewer capacity. The applicant has applied for, and received, conditional approval from the Division of Water Quality for the Capacity Assurance Program; therefore, that note is not needed and should also be removed.

Mr. Martin said that the applicant had met with the Kentucky Department of Transportation, District 7, regarding a permit application for access to Euclid Avenue. He then said that the State's preliminary review states that the roadway impacted by the increase in traffic volume appears to be able to still operate at a responsible level of service, and the Kentucky Department of Transportation does not have an issue with the proposed development. He added that the Kentucky Department of Transportation will require tweaks to the development plan before they approve the applicant's request.

Mr. Martin said again that the access easement on the adjacent lot is not part of this development request. He noted that this issue will be presented to the Planning Commission; but they have no jurisdiction on this matter, and it is a legal issue that will need to be resolved through the Court system. He then said that there will be discussions on the ministerial actions; and this is a final development plan, which is subject to the conditions of Article 21 of the Zoning Ordinance. With that being said, the staff is recommending approval of the applicant's request, as well as the finding that this request does comply with the Big-Box Design Guidelines.

Planning Commission Questions – Ms. Plumlee asked if the staff could consider informing the Planning Commission of the status for the Capacity Assurance Program and the so-called "Golden ticket." Mr. Martin said that that it is incumbent on the applicant to make an application to the CAP to reserve capacity. Ms. Plumlee said that that

information would be helpful to the Commission, should questions be asked during hearings. Mr. Sallee said that, when the text amendment was being reviewed, the initial draft showed a requirement for that to be done prior to the Planning Commission's approval. However, as the staff worked through the draft, it was discovered that that would be problematic for every development plan submission. He said that, in some cases, that information would be easy to obtain; but in other cases, the applicant would be doing that work over years, which is why that requirement is not part of the Zoning Ordinance. He added that the staff can not commit to provide that information on all development plans, but they could perhaps provide that information on some.

The Chair asked if this development can function without the access easement to the adjacent property. Casey Kaucher, Division of Traffic Engineering, said that they had reviewed the proposed development plan, and determined that this development can function with or without that access easement. She explained that the applicant has demonstrated that the delivery trucks can enter from Marquis Avenue and exit back out onto Euclid Avenue.

Mr. Penn asked about the sizes of the delivery trucks to be used by the new store planned for this site. Ms. Kaucher said that the applicant demonstrated that they would be using the larger semi trucks for most deliveries. Mr. Penn the asked if this development can handle any size delivery trucks, to which Ms. Kaucher replied affirmatively.

The Chair asked if the applicant has started the process with the Kentucky Department of Transportation on the proposed access to Euclid Avenue. Ms. Kaucher replied affirmatively.

Mr. Berkley clarified that there is a restriction for truck access on the existing access easement. Ms. Kaucher said that in order for the Division of Traffic Engineering to evaluate the site and comfortably say that this development will function without the access easement, the developer has provided an exhibit showing the truck movement entering from Marquis Avenue and exiting onto Euclid Avenue, restricting any truck movement from that access easement.

Representation – Bruce Simpson, attorney, was present representing the applicant. He said that they are pleased that the staff has reviewed their proposal and recommended approval of this final development plan, as well as saying that this proposal meets the Big-Box Design Guidelines. He then said that, in light of the staff's detailed presentation, they would not be recapping what the staff had stated. He added that they are present to respond to any objections that are mentioned to this proposal in the form of rebuttal comments.

Mr. Simpson said that they want to specifically respond to the concerns regarding the landscape screening along Marquis Avenue and the rear of the property. He noted that, at the zone change hearing, they indicated that they would work with the staff and their landscape architect on the specific types of screening for this property. Directing the Commission's attention to the rendering, he said that they have provided a pedestrian access on Marquis Avenue, as well as 21 trees that will be a minimum of 18 feet in height upon installation. This will be in addition to the rest of the landscaping features proposed for this area in order to mix up the texture of the building and enhance the features of the building. Mr. Simpson explained that, at the rear of the property, there is an undesirable 6' wooden fence along with a mixture of trees, some of which are unhealthy; and they are proposing to install an 8' privacy fence with a stone façade, as well as 8' tall Arborvitae trees and up to 12' tall Armstrong Maples. They believe this mixture will be a substantial sound and visual screening for the adjacent houses.

Mr. Simpson said that, as it was mentioned, there are still issues regarding the access easement on the adjacent property. He then said that they had met with the property owners and made an offer, but they have yet to hear a response from them. He added that, in any event, they believe they have every right to use the access easement since they have been using it for a number of years. He said that, with the proposed changes to the development, they would not be using that access easement as much as it was being used in the past. He noted that they are moving the truck entrance on Marquis Avenue and restricting truck access to South Ashland Avenue.

Mr. Simpson said that, as far as the traffic assessment is concerned, the traffic study did not consider the use of the access easement; and the Division of Traffic Engineering has said that this site would function correctly without it. As this development is proposed, it will still provide a good level of service. Should this matter go to Court, they have already designed the development to function without the use of that access easement.

Mr. Simpson said that this is an important infill project and it must be viewed differently. He then said that they are pleased that this development complies with the adopted Big-Box Design Guidelines, but the Commission must understand that these are only guidelines. The Planning Commission only governs the Zoning Ordinance and Land Subdivision Regulations, not guidelines. The adopted Big-Box Design Guidelines were designed in 1997 for larger buildings that were left vacant for years. These guidelines were not tailored for infill projects, such as this development, and this development above ground is only a little over 60,000 square feet. The adopted Big-Box Design Guidelines pertain to buildings that are in excess of 80,000 square feet above ground. He said that the staff is reviewing the guidelines objectively because they have not only included the square footage above ground, but they are including the square footage below ground. He said that the adopted guidelines read: *"These design guidelines are to be interpreted with some flexibility in their application to specific projects in order to encourage a high level of design quality. Flexibility is necessary to encourage creativity on the part of designers and developers. These guidelines are intended as a tool for the professional designer, the planning staff, the Technical Review Committee, the Planning Commission's Subdivision (sub) Committee, and the*

Urban County Planning Commission itself." Mr. Simpson said that they are pleased that this proposal is in compliance with the adopted Big-Box Design Guidelines and Land Subdivision Regulations, as well as the Zoning Ordinance.

In conclusion, Mr. Simpson said that they have made a commitment to provide additional landscape screening at the rear of the property to address the concerns of the neighbors, and have moved the building further from Marquis Avenue to provide additional greenspace and supplemental screening along Marquis Avenue. He then said that they are in agreement with the staff's recommendations and requested approval of DP 2013-81: SUBURBAN PROPERTY (KROGER & SOUTH ASHLAND LAND COMPANY). He noted that they would respond to any concerns and issues with this project during rebuttal comments.

Planning Commission Questions – Mr. Wilson said that Kroger had reduced the square footage by 10,000 square feet and asked where that reduction took place. Mr. Simpson said that the basement was reduced by 10,000 square feet. Mr. Wilson then asked what had been the original square footage for the basement. Mr. Simpson responded that the basement was originally proposed to be 33,000 square feet in size.

The Chair asked, given the location of this Kroger, if there is data available showing the anticipated pedestrian traffic versus vehicular traffic. Mr. Simpson said that he would refer that question to Diane Zimmerman, their traffic consultant, but did note that with this development being so close to the University of Kentucky, they have provided a transit stop and a pedestrian shelter. Ms. Zimmerman said that, with regard to the pedestrian data, the counts conducted in April, 2012 show that over a two-hour time frame for both morning and night, there were 34 pedestrian movements (or 2 percent in the AM hours) and 176 pedestrian movements (or 6 percent in the PM hours).

Audience Comment – The Chair asked if anyone in the audience, who was in favor of this request, to step forward to speak on this plan. Ms. Jeanie Artis Adams, residing at 1048 Fontaine Road, was present. She said that she had demonstrated a very long history as both a founder and developer of small businesses. She then said that she had owned and operated a business prior to moving to Lexington and she currently owns and operates Sew Fine in the Chevy Chase area. She added that she is a long time resident of the Ashland Park area, and said that the pedestrian traffic in this area is a lot higher than what the traffic study had demonstrated. She then said that, depending on the time of year, the pedestrian counts are varied due to the University of Kentucky students.

Ms. Adams said that she bases her opinion on facts and not on an emotional based knee-jerk reaction. She indicated that before moving to Lexington, her family spent time in Los Angeles, California, and she had frequently visited Ralph's, a subsidiary of the Kroger Company. She said that Ralph's is located on Le Conte Avenue, and this area is very similar to Kroger's on Euclid Avenue. She explained that Le Conte Avenue does have two-way traffic with parking and bike lanes, and that property is located in the middle of the UCLA Medical Center and UCLA Science Department campus. Ms. Adams said that the Ralph's in Los Angeles, CA is almost identical to Kroger's on Euclid Avenue; and for people to get upset over this development, or to have the staff deem this development a Big-Box store, just boggles her mind.

Ms. Adams indicated that she has had several medical issues ranging from back injury to head injuries, and she has no problem getting around this Kroger. She said that there is so much opposition to this request that it was morally imperative for her to speak to the Planning Commission because the opposition to this development is absolutely ridiculous. She said that she wrote to the Planning Commission and to the Council to let them know that she has no problem getting around this store. She said that there is no problem with the traffic because traffic congestion is relative and Euclid Avenue is not congested when comparing it to the UCLA area. With all of the hysterical wailing and reaction from the residents, it boggles her business mind. She said that she has operated two successful businesses by basing everything upon facts and not through a knee-jerk reaction, which is what she has been hearing with this proposal. She said that the Herald-Leader article, written by Ike Lawrence, made her realize that she needed to attend today's hearing. Ms. Adams thanked the Planning Commission for tolerating her rants on this proposal and said that she hoped that the Commission would consider the facts. She said that she had supplied the Commission with research information on Ralph's in Los Angeles, CA, to include aerial maps and photographs of the store, as well as her own personal experience in shopping at an establishment that is similar to this proposal. She then said that she is excited about this proposal and she hopes that the Commission does approve this request. She added that this development may fall into the guidelines for a Big-Box store, but it is not a Big-Box development. Ms. Adams concluded by saying that, even though Kentucky is not friendly to small, women-owned businesses, she welcomes Kroger's to her neighborhood.

Note: A recess was declared by the Chair at 3:01 p.m. and the meeting re-convened at 3:08 p.m.

Planning Commission Comments - The Chair asked for a show of hands in the audience of those in opposition to this request. He noted that there were half a dozen people in the audience who indicated that they wished to speak, and asked for those who wished to speak on this request, to step forward. He expressed to the audience members that there would not be a time limit; however, he encouraged them to keep to their point on the final development plan issues and not to become repetitive.

Audience Comment Continuation - Mr. John Brice, attorney, was present representing Town and Country Apartments, LLC, which has a significant number of holdings in the Chevy Chase area. He gave a brief description of his client's

current and past projects for the Chevy Chase area, and said that they are great believers in infill and redevelopment. He presented a PowerPoint presentation to the Commission and explained that the current Kroger site has four entrances - two on Marquis Avenue and two on Euclid Avenue - plus they are currently using the access easement to South Ashland Avenue through his client's property. He said that when this access easement was created in the 60's, the deeded access easement, which is in the shape of an "L" was specifically created for the existing Kroger lot, not the expansion of the proposed Kroger lot. He then said that the current Kroger lot does benefit from this access easement, but it is his client's position that they will not allow the expansion of Kroger to continue to benefit from that use. He said that both the Division of Traffic Engineering and Kroger have indicated that they do not need the access easement, but his clients find it interesting that they are allowing the Commission to bet on that fact. He then said that the applicant is going to let the Commission make a decision on this proposal that may work, but then again it may not work. He can say that his clients will not consent to the expansion of Kroger's to continue to use the access easement.

Mr. Brice said that Kroger is creating a new "super highway" along the rear of their property, leading from Marquis Avenue to the edge of the access easement, which is aimed straight toward South Ashland Avenue. He then said that if Kroger does not route the traffic to South Ashland Avenue, then the traffic would need to maneuver through their existing parking lot back toward Euclid Avenue. He can not remember seeing any Kroger trucks travel through a parking aisle, but they seem to think this route would be the easiest to avoid the easement issue. Mr. Brice said that they believe the trucks and vehicles will still use the access easement to exit the Kroger site. He illustrated two photographs of the access easement and explained that the easement runs in front of the apartment building and toward the PNC Bank. The minimum street requirement is 24 feet wide, but the existing easement is only 18 feet wide. In addition to the legal issues with this case, there are significant safety issues with the width of the easement. He said that if Kroger decides to abandon the easement, that would be great for everyone; but the easement was only created to offer access to and from South Ashland Avenue, not for additional parking, as it is currently being proposed.

Mr. Brice concluded by saying that, should the Commission approve this development plan request, they are proposing the following conditions to be associated with its approval:

1. No demolition or construction permit shall be issued until the earlier of the following dates.
 - a. The date on which Town & County Apartments Lexington, LLC, or its successor, shall have granted Kroger an amended or additional easement across its property located at 445/447 South Ashland Avenue, Lexington, KY; or
 - b. A court of competent jurisdiction shall have issued a final and non-appealable order and judgment allowing Kroger to utilize the existing easement for the benefit of all of the properties it owns or controls and which are shown as part of the development depicted on this development plan.

Kate Savage, residing at 619 Columbia Avenue, was present. She submitted a petition to the Commission and noted that she is representing all of the residents who are in opposition to this request. She said that these people are not standing in the food stamp line; but, rather, they live in the neighborhood, and they want to see something that will improve the area. She then said that they do not want to see something that is huge, overwhelming and is threatening to the integrity of the neighborhood.

Ms. Savage said that she has come before the Commission, as well as Council; and at this point in time, she is really disillusioned at the amount of attention that is paid to the citizens of this town and their feelings, their thoughts and their consideration. She then said that Councilmember Linda Gorton had announced that she would not be running again for Council; but, rather, she wants to be a grandmother and write a book. She added that Councilmember Gorton also said that she never lost sight of the fact of who her boss was (i.e., the people of this town and not the corporations or the big bullies). She said that it's the people who live in the neighborhood, and it's the people who live near Kroger who will be hugely impacted by this massive, inappropriately sized store. She asked why this store has to be 84,000 square feet and not 64,000 square feet, and why the trash and garbage and all of that smelly stuff needs to be on the back impacting the people who live on Ashland Terrace.

Ms. Savage said that the Planning Commission serves the citizens of this town. The citizens are volunteers, who come in front of the Commission time after time, and who are discounted and not heard. She added that the citizens are dismissed, patted on the head and told "thank you so much for coming, we really appreciate your public input." She said that they are not idiots and they are not nincompoops. They have spent hundreds and hundreds of their own volunteer hours researching this issue. She said that she has spent four hours this week at the Lexington Public Library in the Kentucky Room trying to establish whether or not there had been a gas station on the corner of Marquis Avenue. She said that she is not an archivist or a researcher, she is in the food business; yet she is spending all of her time trying to bring the Commission's attention to the fact that they are not paying attention. She said that she is really disappointed in the way the Commission rubber stamps the things that are being presented to them, adding that the Commission does not ask the right questions. She said that the public is expected to sit in the audience during times when most people are at work and who can not take the time off. The public comes time after time and they are spurned and dismissed and she is "over it." Ms. Savage said that this is her very last time addressing the Commission as a neighborhood activist to say they don't want this humongous Kroger. She then said that they don't care how many trees they plant or that they have worked out the traffic circulation. It's a joke. She added that if the Commission ever drives or goes to this Kroger on a daily basis they will see that it is not workable plan. She said that if the Commission just looks at a map or a plan such as this request and sort of signs off on it, it will be on the Commission's head

because this proposal is a disgrace. She said that if the Commission approves this request today, the members have not heard the voices of the people who the Commission is meant to represent.

Planning Commission Comment – Ms. Blanton said that everyone sitting on the Commission is a volunteer; and to insinuate that the Commission does not care about this community, or that the Commission is getting paid for their time, is grossly in error. She then said that she was offended by Ms. Savage's comments, and added that the Commission has to take into consideration the law and rules that they must abide by; and to do otherwise would bring lawsuits onto the tax payer. Ms. Blanton said that the Planning Commission has a responsibility as well.

Audience Comments (cont.) – Ike Lawrence said that he has 15 years of experience in supporting and opposing zone changes on the neighborhood level; and, on a broader base, he has 20 years in public speaking. He said that he has experience in reading plans; and he is able to look at both sides; but with this request, there are still a lot of problems with this huge building.

Mr. Lawrence submitted a handout to the Commission showing the contrast of the existing and proposed building, as well as points from the article that was published in the Lexington Herald-Leader. He said that one thing that was left out of this article was the contrast of the building footprint; and when looking at the illustration, it shows how much larger and massive this building will be on this site. He then said that his concern is the aging of the concrete that will be used for the roof-top parking. He then said that it has been noted that, due to the outside elements, parking structures, on average, only last 25 years. After that time, major work must be done. He explained that the roof-top parking is 65 percent of the total parking; and since this area is mostly flat, during the colder weather when salt will be used, it can not wash down to the ground level. This situation will cause the new concrete to erode within 20 years from now, which is why this design is not appropriate. Mr. Lawrence said that he has dealt with all types of roofing material and drains; but he has never seen a concrete roof, because over time, a flat parking structure must be maintained or demolished due to safety concerns.

Mr. Lawrence said that food is a big issues, and just like the water company, citizens can not survive without it. He then said that the State requires a hospital to have a certificate of need for area of coverage, but there is no requirement for a certificate of need for these food deserts that are being created in some neighborhoods. If the Commission allows this building to be expanded, it will take away any chance for a smaller food store to be established on South Broadway; plus, there is the likelihood that the Kroger on Romany Road could be closed. He said that this will be a large megastore, and it will keep anybody that would be competitive from coming to the downtown and surrounding areas. He then said that he is asking the Commission not to approve this request because it is too big for this community. They do not want people from outside of this area coming out of their way to shop at a grocery store, which will create a food desert. This is one reason the expansion of Kroger should not be approved. He then said that, for this neighborhood, the size of the building should be between 42,000 to 45,000 square feet to keep it more manageable, and this would also retain 35 percent of the footprint.

Councilmember Diane Lawless was present representing the citizens of this area, and she said that the 3rd district is fraught with problems, and the residents in this area are very passionate. She then said that she appreciates the Commission's services to the community and she knows that the members work an untold number of hours. She said that she is not necessarily opposed to this request, as the Council did vote unanimously in favor of the zone change; but this site was erroneously "grandfathered" in the Capacity Assurance Program. She requested that, before the Commission approves this development plan, the capacity on this site, as well as the access easement, needs to be addressed. She added that she understands that a traffic study has been done for Euclid Avenue; but if the Court grants Kroger permission to use the easement to South Ashland Avenue, then a new traffic study should be required. She then said that, even though the city does not own the easement, the city does own the curb and gutter, and this would pose a safety concern for both pedestrian and vehicular traffic due to the sight triangle.

Councilmember Lawless said that, even though there was no opposition to the reduction of the square footage in the basement, she believes that a geotechnical study should be conducted to find out what type of material is in the ground and whether or not blasting will be required. She said that an investigation needs to be completed before the Commission approves the development plan due to the nearby houses that could be impacted by blasting.

Councilmember Lawless said that larger vehicles exiting onto Euclid Avenue will cause problems for both pedestrian and vehicular traffic; and since Euclid Avenue is a State road, the applicant needs to speak with District 7 before this development plan is approved.

Councilmember Lawless concluded by saying that there are very serious issues that still need to be addressed with this development plan. She said that this proposal does not qualify to be grandfathered in the CAP; and just because the applicant is requesting a waiver to the CAP, she believes that it can not be given due to the Consent Decree. She then said that with the increase in traffic, Euclid Avenue safety needs to be discussed with District 7, as well as a new traffic study conducted for South Ashland Avenue. She noted that the Risk Management should also be notified on the potential dangers of this proposal. Councilmember Lawless reiterated that a geotechnical study needs to be conducted to determine whether or not blasting will be needed on this property. This development needs to be safe and should not be prematurely approved, and she requested that the Commission not approve this request until these issues have been resolved.

Planning Commission Questions – Mr. Penn said that the Commission did receive a letter of confirmation from the Division of Water Quality showing that this development has capacity. He asked, when the Council decided to unanimously approve the zone change, if the concerns mentioned at today's hearing were expressed as part of their conditions. Councilmember Lawless said that the applicant had presented a different development plan to the Council, and they were unaware of the issues with the access easement or the capacity. She said that she was concerned with this development being grandfathered in the Capacity Assurance Program, since it was not proposed until after July 3, 2013.

Mr. Penn said that he wanted to be clear that the Commission does have a letter from the Division of Water Quality and this development does have capacity. The issue with this development being grandfathered in is a moot point. Councilmember Lawless said that this development does not have capacity and asked who provided the letter. The Chair said that the Planning Commission has a letter, dated November 13, 2013, from Rod Chervus of the Division of Water Quality, stating that there is capacity for this development.

Mr. Penn asked if the access to Euclid Avenue was discussed at the Council hearing. Councilmember Lawless replied affirmatively. Mr. Penn then asked when the Council unanimously approved the zone change, if those concerns were reflected at that hearing. Councilmember Lawless replied that they were not because the Council was unaware of the sanitary sewer issue. Mr. Penn then asked if the other issues that have been raised were mentioned at the Council hearing. Councilmember Lawless said that the traffic study for South Ashland Avenue was not mentioned because it was noted that a study was not required. She asked if she could see the letter from the Division of Water Quality, to which the Chair replied that a member of the staff could provide her with a copy of that letter.

Audience Comments (cont.) - Amy Clark, residing at 628 Kastle Road, was present. She thanked the Commission for their time and attention in reviewing this development plan; but now the residents are calling upon the Commission for their extraordinary sympathy, and an act of imagination to see what it would be like for the citizens who live near the new Kroger store. She then said that the plan needs to be reviewed as to whether or not this proposal will work as is, or if certain modifications should be made to make it more welcoming to the surrounding neighborhood. She added that, at the November 7th Subdivision Committee, Ms. Mundy expressed her concerns with her (Ms. Clark) dismissing the staff, and that was not her intention. She said that the staff members are long-serving professionals, and she did not want to come across saying that the staff was not doing their job.

Ms. Clark said that the Commission was given a letter to further express their remaining concerns with this development. (A copy of the letter is attached as an appendix to these minutes). She said that, on behalf of the Euclid League, they are requesting that the Commission not approve this development plan. She then said that there are many elements that are lacking in this request, and those elements include the requisite sewer capacity and tree protection plan; safe pedestrian paths to and from the main entrance and checkout across the lot; a traffic impact study for South Ashland access and State approval for Euclid Avenue. She then said that they believe this plan does not comply with four of the Big-Box Design Guidelines. She added that she understands that these guidelines are just guidelines, but some of the guidelines are incorporated into the B-6P zone. As the final body with discretionary power over this plan, the Planning Commission can best support the professional staff and protect the citizens and neighbors by asking for assurance that its larger elements are well and soundly in place before allowing this development plan to proceed. She said that she is not talking about the zone change, every little permit that is needed or even Engineering's oversight; because that belongs to the professional staff, and it is simply an exercise of their professional judgment and responsibility. She said that the Commission, as the last group of citizens to exercise the sovereignty of the citizens, is called upon to protect the Zoning Ordinance and the residents of the neighborhoods.

Ms. Clark directed the Commission's attention to a series of photographs, and said that their chief concern with this development, is that it threatens the neighborhood stability along the Ashland Terrace boundary for homeowners and stable tenants, and it radically degrades the quality of life for 20 modest Town & Country apartments residents. She then said that the development cuts a quasi-public drive straight through from Marquis Avenue to South Ashland Avenue. It sets trucks/loading docks and trash collection on the side of the building adjacent to a residential use, which the adopted Big-Box Design Guidelines discourage. She said that the required 50-foot building setback is equally divided between permanent structural encroachments, such as the roof ramp; the 3-bay loading dock; and dumpster/compactor, which has a Simtek wall. She continued to say there will be a truck drive, a 2-way customer drive, and a pharmacy window that will allow a U-turn stacking lane. This is essentially a truck stop over the back fence of the neighbors.

Ms. Clark presented a sample of the Simtek wall to the Commission, and said that the proposed landscape buffering is inadequate since the adopted Big-Box Design Guidelines call for a masonry wall or berm with trees, and the Zoning Ordinance calls for an extra 10' from the canopy of the tree. She then said that they believe one possible refinement to this development would be to reduce the number of truck bays, which would allow extra landscape buffering along the rear boundary. She added that, due to the inadequate protection of the tree lines and roots, the construction at the rear, the impermeable pavers and the stormwater detention basin will destroy the Ashland Terrace tree line stands. Ms. Clark said that, at the Technical Committee meeting, she had spoken to the Urban Forester, who did not believe the trees will survive; and since that meeting, she has not seen a revised development plan for this site.

Ms. Clark said that the proposed development does not constitute an improvement over the existing rear area. She then said that this commercial area will be extended to twice its present length along that interface, and the project will pave and build over 0.5 acres of the present greenspace, as well as areas where there were former homes just a few years ago. She added that this redevelopment begins with a total teardown, and the Marquis Avenue access point for the trucks and loading area is wholly new. She indicated that they are not asking for the owner to destroy the value to meet a new design standard and with the present loading dock on Marquis Avenue, a design could be done that would not place the freight and trash next to the residential uses. She said that this infill situation, far from granting indulgence and a free pass, should advise extraordinary vigilance in protecting the surrounding neighborhood.

Ms. Clark said that Ashland Terrace shows a lovely face to its neighbors versus the face that Kroger means to show. She then said that there are 100-year-old homes that are the hard-line boundary between the Euclid commercial use and the Hollywood Terrace National Register Historic District. She added that these homes make a kindly prospect for the Ashland Terrace Retirement Home, and we can not afford to set this street in jeopardy. She said that this area was on the National Register nomination, and was a Neighborhood Action Grant project, and it is a grassroots effort and important to the identity of this community.

Ms. Clark said that they received a letter from Charlie Martin stating that the grandfathering of the sanitary sewer was in error, and now there is a letter stating that the development does have capacity. She said that she does not understand what that means since the sanitary system was already overloaded. She then said that Kroger comprised about half of the sewer credits when it was grandfathered into the CAP. If it was done in error, Ms. Clark said that, to her understanding, this development has to wait in line until capacity becomes available.

Planning Chair Comments - The Chair responded that it has been determined by the Division of Water Quality that this development does have capacity and that information will be what the Commission goes with. Ms. Clark said that there is a note on the development plan that said the development being grandfathered was in error. The Chair said that there is also a requirement on the conditions stating that documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements is needed prior to plan certification.

Ms. Clark continued, noting Brannon Member, on which the property sits, is a solid limestone with shale mixed in, extends over most or all of the area where the basement is to be dug, and they are concerned with the blasting. She then said that they know there was a gas station at the corner of Marquis Avenue and Euclid Avenue, and there are no records of these gas tanks being removed. She added that they would like see if there will be any soil abatement done on this site.

Ms. Clark said that she understands that Euclid Avenue will need approval from the State, but South Ashland Avenue does need a traffic impact study performed. She then said that, in looking at the overall area, the potential traffic could use the easement to gain access to South Ashland Avenue to avoid the congestion that will be on Euclid Avenue. She added that the increased traffic will flow through the neighborhood near the Ashland Terrace Retirement Home, creating a hazardous area for pedestrians since there are no sidewalks in this area. She said that, as for the access easement, it is another person's property. Ms. Clark said that if the access easement can not be regulated by the LFUCG, then she is requesting that the Commission not approve a plan that includes the use of this easement.

Ms. Clark explained that there are issues with the site circulation, and they believe this site will be too cramped to provide a safe route for pedestrian movement. She said that the left turn into the site blocks the left turn onto Euclid Avenue; traffic turning right into the site will be impeded by the carts and pedestrian movement at the front of the store, and the roof-top parking could cause a stacking issue at the rear near the pharmacy.

In conclusion, Ms. Clark said that the height of the proposed "pharmacy" sign could be seen from South Ashland Terrace and should be lowered. Now there is a new sign proposed at the corner of Marquis Avenue that is unwelcoming. She then said that that sign should stay within the scale of the street.

Jenny Dailey, residing at 136 Burley Avenue, was present. She said that the even though this Kroger is not within her immediate neighborhood, it is the closest grocery store to her house. She then said that they would like a revamped Kroger that serves the neighborhood and is highly successful. While she respects all of the work that has gone into the plan to get it to this point, the fact that this development plan is still not fitting in with Fayette Mall (B-6P) zoning or the Box-Box Guidelines should be an indication that this development plan is not ready yet. To quote a famous attorney, she said that "if it does not fit you must acquit." Ms. Dailey added that Mr. Simpson has said that this is an approvable development plan; therefore, the Commission must approve the request. If the process was really that black and white; then the Planning Commission would not be needed. She said that the citizens need the Commission's unique perspectives to lead the community through a difficult decision, and the Commission's actions will make the difference between design acceptance and design excellence. She added that the term "design excellence" has been used under Mayor Gray's leadership. She said that a store that the neighborhood ends up tolerating versus a store that the neighborhood loves adds to the quality of life of the neighborhood. In conclusion, Ms. Dailey said that, with the Commission's rejection or postponement of this development plan, it will lead the way to a much improved development plan, which is what the neighborhood wants and Lexington deserves.

Rebuttal Comments – Mr. Simpson said that they are certainly mindful that the residents in the audience do not like this proposal. He then said that they understand that infill projects can be difficult. Kroger wants these residents to be their customers; and for two years they have made changes to the development plan, the landscaping and architectural features. They have listened to the staff as well as the residents and believe they have met the test. He said that one of the features of planning and zoning is filtering the applications through the professionals that the Commission and the citizens of Lexington rely upon. He then said that the professional staff is not loyal to his client or himself, and most of the time they are on opposite sides of an issue. He added that they always try to address the staffs' concerns because the staff is a group of qualified professionals; and he knows that the Commission and Council rely upon their input. He said that there are cases where there are differences of opinions; and he must take that position and bring experts in front of the Commission, at which time a decision is made. He then said that in this case the evidence is overwhelming, and they have received the staff's approval every step of the way, which is substantial. Even though they cannot convince the residents in this area of the worthiness of the \$19 million investment, they will keep trying. They will continue to be good neighbors as they have always been. They will be available to tweak the project to make it more responsive to the neighborhood's concerns because that has been Kroger's reputation this entire time. His client has a legacy; and if they were not doing the right thing, people would hear about it by now. Mr. Simpson said that his client is doing the right thing. They are presenting the final development plan to the Commission, which the staff found to be in compliance with the Zoning Ordinance, the Land Subdivision Regulations and the adopted Big-Box Design Guidelines. This is important, because it establishes a benchmark for future infill projects, which is critical to Lexington since the Urban Service boundary is not expanding. He added that he advises his clients to be more creative and to design handsome projects that are sensitive to the built environment, because this is the way Lexington is growing in the future. He said that Kroger met the goals of the Comprehensive Plan, even when the 2001 Comprehensive Plan was adopted. This is the kind of project that needs to be approved. They have met the legal requirements for it to be approved, and he urged the Commission to do so.

Opponents Rebuttal - The Chair asked if Mr. Brice had anything further to add. Mr. Brice said that the issue of the access easement had been talked about, and he believed there was nothing further to say.

Staff Rebuttal – Mr. Sallee said that the staff did not have any rebuttal comments; but they would like to clarify that, as far as the Capacity Assurance Program issue, this property was initially shown as a grandfathered location on some of the original mapping. There is a note on the development plan concerning that issue, and the staff has requested for that note to be removed because the property is not grandfathered. He then said that there has been a recent request for a sewer capacity determination on this development, which has been reviewed. The preliminary report on that request has been distributed to the Commission for their review. He added that, when he received the information prior to today's meeting, he did forward that information to several people; but he does not know if they received that it before attending today's meeting.

Audience Rebuttal - Ms. Clark said that she is very curious about the terms of capacity, and she is guessing that this development is an exception because it is an extraordinary economic development or special needs project as a food store. The Chair said that the staff can provide Ms. Clark with a copy of the capacity report.

Planning Commission Questions and Comments – Mr. Berkley said that, it was announced that the School Board will be purchasing the Winn-Dixie location, so it will not be available for future use. As for the Chinoe and Romany Road stores, he asked if there is any intention, at this point, for these stores to close should this development plan be approved.

The Chair asked if traffic calming devices could be installed at the rear of the property between Marquis Avenue and the access easement to prevent any cut-through traffic. Mr. Simpson said that there will be signage issues, and he asked for Mr. Cornett to explain why it would or would not function, based upon what is being proposed on the development plan. The Chair asked if traffic calming devices have been considered for the rear of the property. Mr. Cornett said that it is not a straight shot across the rear of the property, and they are showing stop signs and stop bars; but they could also consider traffic humps. The Chair said that he is not sure how much of a cut-through there would be at the rear, but the issue was brought to the Commission's attention. Mr. Cornett said that some type of traffic calming devices could be installed.

Mr. Penn said that it was mentioned that the access easement will not be available for Kroger to use, and he would like some peace of mind that the traffic circulation will work without that access easement. He then said that if this is the wrong assumption, then the Commission needs to know. Mr. Simpson said that Kroger has been using the access easement for more than 40 years; and there is a difference in legal opinion about the continued use of that easement. It is not in the jurisdiction of this body to make any determination about its use. However, the Division of Traffic Engineering has stated that, should the access easement be closed, and based upon the other access provisions that are being proposed, the traffic circulation will still function safely for the benefit of the customer and the public in the general vicinity of this store. He then said that they have had the use of the access easement for more than 40 years and they are not inclined to give up that easement. He further said that when the traffic study was conducted, they did not use the access easement in the calculations. They placed all of the traffic onto Euclid Avenue, and it met the test for approvability. He added that, as far as the cut-through traffic, they believe the traffic will turn onto South Ashland Terrace over to South Ashland Avenue versus trying to navigate through the apartment parking lot.

Ms. Plumlee said that the Planning Commission can listen to the neighborhood's concerns, but "it's a sad day in Mudville when neighbors strike out." Should the day come when no neighbors appear in the audience, then somehow the Planning Commission has done something very wrong. She then said that there are things concerning this plan that she personally does not care for; but by the Zoning Ordinance and statute and the Comprehensive Plan, it is an approvable plan. Ms. Plumlee thanked the audience members for doing their research and attending today's meeting. She also thanked Kroger and their representative for working together through this complicated process. She said that she was unsure which way she would be voting on this proposal.

Ms. Blanton said that this development plan has come a long way, in part because the neighbors and Kroger are working together, and the pedestrian entrance on Marquis Avenue is a prime example of that work. She then said that she has lived in Lexington for 17 years in three different houses, all of which have been between three blocks and a mile of this Kroger. She added that she does use this Kroger for items that the Romany store can not provide, and she understands the concern from the neighborhood; but the issues with the traffic and the circulation of this property are already in existence. She said that she believes this will be a great improvement over what is currently on this site; and this is exactly the type of infill and redevelopment that the Commission says that they want.

Mr. Penn said that, as the Commission is aware, he has had issues with Kroger and their gas pumps; but when he looks at this development plan and when he asked Mr. Simpson if the Commission should assume the access easement is not needed, he is making his decision is based on the facts from what the Division of Traffic Engineering and the Division of Water Quality have presented to the Commission. He further said that that is all that he can do. He does not have any way to value that one way or another, and he relies on the professionals to do that. Mr. Penn said that he believes that 11 pounds of flour in a 7-pound sack is a bad deal. He also knows that in the infill areas the land is just not available for what the Commission wants and envisions. He said that he is leaning more toward supporting this development plan because he believes it is necessary for the community; and it is necessary to have these stores in the downtown area. He then said that there are things about this development plan that he does not agree with; but this has been a two-year process, he remembers when it started, and he has watched it evolve. The applicant has certainly made a good faith effort; and he is unsure what else the Commission can do, other than drastically reduce the size of the building, and he is not willing to go that route at this time.

Mr. Cravens said that the Commission is faced with a decision; and in listening to the opposition, he did not hear any reason why this development plan should not be approved at this time. He then said that he has reviewed this development plan several times, and the applicant has received approval from the appropriate divisions; therefore, he sees no reason not to approve this plan.

The Chair said that the Commission has listened to testimony for this development plan for over 2 hours, and the same amount of time was given to the zone change request earlier in the year. He then said that with the Zoning, Subdivision and Technical Committee meetings, as well as the Council, this proposal has been vetted hard; and during the review process; changes were made. He added that he appreciated the neighborhood coming forward, and their comments are taken seriously; but the Commission listens to the testimony given and goes with what is best. The Chair said that the Commission does not consider anything light heartedly, and they do review the proposal as well as visit the site. He then said that during his visit to this Kroger, there were at least 50 people walking through the parking lot to and from their cars into the store. He added that the Commission members do not get paid for their time, they do take this proposal seriously; and they want to do what is best for Lexington as a whole. The Chair thanked the audience members for coming to the hearing and said that the Commission appreciates their comments very much.

Action - A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 9-0 (Drake abstained; Brewer absent) to approve DP 2013-81: SUBURBAN PROPERTY (KROGER & SOUTH ASHLAND LAND COMPANY), as presented by the staff.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 10-0 (Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated November 14, 2013, from Barry Brock, Division of Engineering.

- VI. COMMISSION ITEM** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

1. 2013 COMPREHENSIVE PLAN

Mr. Owens stated that minutes from October 31, 2013 public hearing were emailed to the Planning Commission, as well as a chart that addressed issues and statements from the public hearing and any comments from letters or emails to the Division of Planning.

Mr. Duncan said they would address any questions or concerns about what was heard at the public hearing and any questions about the Comprehensive Plan.

Ms. Blanton commented that she was unavailable to attend the hearing, but wanted to say thanks for providing the chart, which was invaluable.

Mr. Berkley said what he took away from the meeting was a lot of concern about the Implementation element and not having it. He has some concerns before they vote on the Comprehensive Plan.

Mr. Duncan replied that the staff is firmly committed to bringing the Planning Commission a full chart of implementation tasks, which will include the timing and responsibility for the tasks. He said the implementation tasks will be drawn from the draft that the Commission has before them, which includes possible tasks that are listed at the end of each chapter as well as from the text within the chapters. The text recommends a number of actions that should be taken to help this Plan be implemented. He said the Planning Commission already has before them what they should expect to see more specifically when the Implementation element is presented for review. It is the first task of the Comprehensive Plan, once adopted, to create the Implementation element. The draft Implementation element will be discussed at the next Planning Commission work session, which is January 23, 2014. That is also the same time that the Director will be working with the Commissioner of Planning and the Mayor's Office for next year's budget. So items that will be identified in Implementation that will need additional funding beyond what staff can provide would very likely make it into our budget requests. Mr. Duncan said he understands the concerns that the Commission doesn't have that task list before them today, but is saying that staff intends to bring that to the Planning Commission.

Mr. King commented that there is nothing unusual about the Planning Commission adopting the Plan in different phases. In fact, in the last Comprehensive Plan update the Land Use element was adopted in 2006, and it was later in 2007 that the other elements were adopted by the Commission. He said that there should be no concern about what was being proposed in terms of adopting the major elements now and then coming back with Implementation, since it has been done in the past and is a usual practice.

Mr. Berkley said that he thinks the big concern is the doing away with the land use map. He thinks that is a major change; and it is where he is hearing a lot of questions because that is an unknown, and it is so important to the community. He thinks that is one of the emphasis areas.

Mr. Duncan replied that the possibility of having criteria or guidelines that would help guide zone change decisions in place of a map was discussed at the public hearing. He thinks the watchword of this Comprehensive Plan is "flexibility." It is believed that if we can move beyond the parcel-based future land use map, that it opens development possibilities. It enables developers to pursue the kind of creative projects that are needed to accommodate population growth and job growth, and will enable development in the constrained growth boundary that exist right now for as long as possible. It is his belief that if this is not done there will not be as good of a chance of efficiently using the remaining vacant land we have or re-using the underutilized property. It is understood that the land use map has been used for decades, but it has become more of a barrier to creative development than it is an enabler to development. By moving away from the land use map and perhaps developing more policy-based guidelines, then developers, neighborhoods, the Planning Commission, staff, and Council will be able to make better decisions about what kind of development is needed for particular locations and for the needs of the community.

Mr. Penn said that the last time the Planning Commission adopted sections as they went along and that didn't happen this time; we came all the way through saying it will be put together and adopted at the end. If the land use map is done away with, then what is being said is that this Commission will uphold the Comprehensive Plan in almost all the decisions being made going forward, because it doesn't have to agree with the map, which is just another issue. He said that what he didn't understand was that if we haven't adopted each element as we went along, why it is important to adopt it now rather than after the implementation stage. Mr. Penn asked what the criterion is for not putting the implementation with the rest of the plan and adopting it as a unit.

Mr. Duncan responded that it is a good benchmark, after three years of working on this Comprehensive Plan, to show the progress that has been made, especially since the Plan layout has been redesigned and the Plan's emphasis has been redirected. He thinks it is good for the staff, the Planning Commission, and the community to show that this is the direction in which we are going; and we adopt this Plan with all of its recommendations for how we achieve the growth that we need. Then the first task of implementing the Plan is to identify the actions that we need to do to achieve that. Mr. Duncan said that the Implementation element becomes the first Implementation task out of this Comprehensive Plan. By adopting it now, we have crossed a significant threshold; we passed the Plan; we have a document as a reference, and we go forward from that.

Mr. Penn asked, if the Plan is adopted today, and for whatever reason the Planning Commission doesn't like the Implementation element, what their recourse is. He wanted to know, if the Plan is adopted, if they would be able to debate on how it is implemented.

Mr. Duncan said that, by adopting the Plan, the Commission accepts generally what the Plan is about and the direction that it is proposing for the community. The Implementation would be reviewed by the Planning Commission in the form of specific tasks, which would be negotiated. It would come as a draft at a work session. It would be discussed with the Commission, which would include a review of why the tasks respond to the Comprehensive Plan and why it is thought we have the capacity to do them. He said that if the Planning Commission had other ideas, other priorities, or didn't agree with what is recommended would we discuss the issues before adopting the Implementation element. Implementation will be reviewed through work sessions and public hearings and comments just like any other amendment to the Plan would.

Mr. Penn said he thinks they can prioritize what the Planning Commission thinks is important. There will be what can be done, what can't be done and what the staff and Commission would like to do. It will be constrained by money. Mr. Penn said that he is concerned that, without the map and with increased flexibility, implementation is that much more important. As a Commission, they are going to have to uphold this Comprehensive Plan and not make a lot of changes as they go down the road, because the Commission does not have the map for support.

Mr. King responded that the Implementation element, just as the other elements, will be aspirational. Every other time a list has been set, although the list has been flexible. Things change, new opportunities come up, but what we have is an aspirational benchmark of things that this body feels is important to implement the Plan. He said staff comes back every year and reports progress to the Planning Commission. He stated that there is not a Comprehensive Plan prior to 2001 that had that kind of detailed implementation section. Since the turn of the millennium, we have very directly and very purposefully tried to turn the Comprehensive Plan into a much more strategic document, in terms of implementing by very specific activities the aspirations expressed in other elements of the Plan.

Mr. Cravens said that he supported taking the colors off the map because free space was needed for creative projects. He asked if a scenario could be presented for demonstration purposes because everything was not being "un-zone" – it was only a situation where future land use recommendations were being removed from the map. If future use is off the map it would allow developers the freedom to do something else if the Planning Commission would go for it. He asked if that was the intent of removing future recommendation from the map.

Mr. Duncan responded that he thought that by eliminating the land use map, barriers would be removed to the kinds of things Mr. Cravens was talking about. People come to the Planning Commission now and are successful in making proposals that do not match the map, but it is a hurdle that everyone has to go through. He said we would much rather see the emphasis on making the development compatible with what is going on around it, and making the development responsive to needs in the community, rather than just overcoming the color on the map.

Mr. Cravens said he could vote for the Plan without the Implementation, as long as the Planning Commission can debate these Implementation things. He asked, if the Plan is adopted without the implementation chapter, if it can be used to say that it gives the right to implement everything that is written in the Plan, noting that he did not agree with everything that has been written into the current Comprehensive Plan.

Mr. Duncan answered there may be some things in the Plan that the community agrees with in part or not at all. But as those are turned into tasks, they will be debated again. If those tasks lead to changes in regulation, ordinances or policies, then those will be part of the public debate.

Mr. Cravens said that he remembered from the last Plan that tasks were worked through and checked off again, noting that there are a lot of things in the Plan he doesn't like.

Ms. Beatty said that when the Implementation starts, it was stated that it will be parallel with the budgeting process in January. Some of the bulleted areas and their recommendations will be listed and put in some type of implementation document. She said that some of those are fairly easy to do and are not tied to a dollar amount, but some of the items will be fiscally impacted. She asked if those will come back to the Planning Commission so they have an opportunity to prioritize them, or if the Planning staff will decide the priority of those items. She asked if the Planning Commission would have any input on the items and whether the Commission decides which Small Area Plans are prioritized first.

Mr. Duncan replied that Ms. Beatty hit on the projects that usually do cost money--the Small Area Plans or trying to update a major study (i.e., the Housing Market Study). He said they would bring to the Planning Commission what they believe are the priorities for these projects (based on the data), which is in part, why the Small Area Plans were identified by the data in the first place. It will also be based on what staff is available to perform those tasks and what kind of funding is available' for instance, there is some partial funding for the Gainesway Small Area Plan, which would be a priority, because we have existing money and we need to obligate that money. He said working with the Director and the Commissioner of Planning, we would know what other kind of new monies we might be able to tap into to do some of the other items and bring to the Planning Commission recommendations for prioritizing these projects. The staff and Planning Commission would work together, based on the monies we think we might have and the money we are willing to ask for this would be with the understanding that if these projects get funded, we can proceed; and, if not, then we put them aside, move onto something else and come back to those later.

Ms. Beatty asked if those items would be part of the discussion when talking about accepting or voting on the Implementation piece of the Plan.

Mr. Duncan replied affirmatively, and said that Small Area Plans have been recommended, but the Planning Commission may decide to have the staff spend energy doing something else.

Ms. Plumlee asked if there was a timeline, an anticipated "drop dead" date for the Implementation.

Mr. Duncan responded that staff would like to bring the Implementation draft back to the Planning Commission in January and move through that as quickly as possible. If not, there won't be tasks to do for the next year. He said that Implementation is the

next priority once the Plan is completed, which includes developing the Implementation element and bringing it to the Planning Commission for approval as quickly as possible.

Mr. Owens emphasized the importance of a “drop dead” date and strongly suggested by the end of February.

Mr. King commented about the good timing of the Plan/Implementation and the budget process. He said it is clear that to do small area planning the way Planning likes to do it, we need to augment our staff resources with some consulting. When he approaches the Council and the Administration on these issues, he often puts in a placeholder dollar amount. As they go through the budget negotiations at both the Administration and the Council level, having vision from the Planning Commission of the types of plans the Commission would like to do is very helpful when they are putting together these ideas for the competition of the limited funds that are available. Generally there is a lot of support to do small area plans, particularly once the Comprehensive Plan update is done. He said the Small Area Plan window of opportunity is in those two to three years before the big process for the next Comprehensive Plan update is cranked up again. Sometimes the Council, when dedicating money to this, leaves it to the Commission to prioritize. The Council cannot adopt an amendment to the Comprehensive Plan, but the Planning Commission can. Mr. King said it's a give-and-take process, but he thinks it is a very positive and important aspect of approaching the budgeting process.

Mr. Wilson stated that the changes that have been made in this Plan are predicated on lessons learned that staff experience in the last Comprehensive Plan, with this being his first time going through it. He said the word “flexibility” was put in the Plan purposefully; and that if the Plan needed to be tweaked, it could be; e.g. if you develop a product and you put it on the shelf and it's not purchased, are you then willing to take it off the shelf and revamp/revise accordingly to make it sell. He said that he doesn't know if there are any determining elements on whether or not how successful this will be at the beginning, or how the community will react to give the Commission feedback on whether or not they did the right thing. He also said that he doesn't know if there are any kinds of built-in determiners as to whether this particular activity of the Plan would be a success predicated on reaction from stakeholders. Mr. Wilson asked, if there turned out to be serious issues, if the Planning Commission is willing to back up and do it again; or back up and take care of those sections that might need additional work, even though the Plan is voted on.

Mr. Duncan said there is the opportunity to revisit the Comprehensive Plan. It can be done with Small Area Plan amendments. The statute gives the option to revisit it, as well, between Plans. He stated, however, that five years is a very short time; and he is not even sure that is enough time to evaluate that situation, because there are so many other externalities going on at the same time. Financing opportunities change or improve and money is more available. Developers do something different, not because the Plan says so, but because market trends have changed. These outcomes can be linked to the Plan but may have happened anyway. The main thing the staff is trying to do with this Plan is to ensure that we can continue to accommodate growth and development responsibly, while preserving our rural land. That will be one of the tests as we approach 20 years without expanding the Urban Service Area boundary: i.e., are we using the vacant and underutilized land, because we still have thousands of acres of both. Right now our contention is that we have a way to go before any major expansion. He said that will be part of the test of any sort of plan--has it enabled us as a community to develop the land responsibly so that we are accommodating growth and protecting the assets that are important to us. If so, then we should have an idea that we are on the right track. If something comes up that stops development altogether, then there is a problem; but he doesn't believe, based on the comments from those who do develop for a living, that this Plan presents those kinds of problems.

Mr. Penn said that he thought we've changed a lot, of course, since last Comprehensive Plan, which is good because we do have flexibility. We've taken a leap of faith in saying we like this Plan well enough that it will be consistent. We will uphold zone changes based on the consistency of this Plan; and if this doesn't happen, then we don't need a Plan. We just evaluate everything based on whether we want to do it or not. He said that this gets us to where we would like to be, not rezoning every piece of property, one property at a time. It doesn't change that, but it gets another step closer to it because of the map situation. He recommended to the Planning Commission members that, when adopting this Plan, be determined to make it work or have a really good reason to change it. He recommended to not just make the Plan go from week to week or month to month, although the staff would not likely let this happen anyway, noting that the staff would not come for recommendations for approval based on whims. He said that the market condition makes him nervous; he doesn't believe that just because the market wants something, every piece of property ought to be based on that. He thinks there is a lot of consistency in doing it that way, but doesn't think that should be the single most important thing we look at.

Mr. Owens said we will “hold our feet to the fire” to make sure we get to the Implementation stage and get it done. He has told Mr. Duncan before, throughout this process, that we need some flexibility; but we know that I-2 (Industrial) lands couldn't go in the heart of a residential area.

Action - A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 10-0 (Brewer absent) to adopt the 2013 Comprehensive Plan. A copy of the Resolution adopting the 2013 Comprehensive Plan is attached.

VII. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present would be heard at this time.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. NEXT MEETING DATES

Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	November 21, 2013
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	November 27, 2013
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 5, 2013
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	December 5, 2013
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 12, 2013

X. **ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 5:10 PM.

Mike Owens, Chair

Carla Blanton, Secretary

* - Denotes date by which Commission must either approve or disapprove request.